

# CITY COUNCIL REPORT



Meeting Date: February 25, 2014  
 General Plan Element: **Public Services & Facilities**  
 General Plan Goal: **Provide a safe environment for all citizens, visitors and private interests**

## **ACTION**

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Adopt Ordinance 4136 adding Article X, Sections 17-360 through 17-372 to Chapter 17, Motor Vehicles and Traffic, of the Scottsdale Revised Code for the regulation of private property towing.

## **BACKGROUND**

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The purpose of the proposed ordinance is to strengthen the integrity and professionalism of the towing industry while at the same time protecting the welfare of Scottsdale residents and visitors. This ordinance only affects private parking areas and not public parking lots, streets or rights-of-way.

While some minor amendments to the City's towing ordinance were made in 2005, certain parts of the ordinance covering things such as maximum towing fees, have not been updated since 1989.

## **ANALYSIS & ASSESSMENT**

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### **Recent Staff Action**

The proposed ordinance principally addresses the following:

- Consistency in size, color, materials and placement of warning signs on private property where owners want authority to tow illegally parked vehicles.
- Clear authority from the private property owner to the towing company, as addressed in written contracts specifying parties and contact information.
- Prohibiting boots and other devices to immobilize a vehicle where it is parked.
- Notifying the Police Department of towing before a vehicle is towed.
- Incomplete service calls (before a vehicle is towed) and a driver's right to have the vehicle dropped without charge.
- Prohibiting staging—the practice of removing vehicles from one lot and temporarily storing them in another close-by lot to increase the towing opportunities; this undermines the Police Department's ability to tell a driver where to find the vehicle and can lead to confusion and altercations when a driver finds the vehicle in another lot.
- Driver's rights to retrieve a vehicle at any time of day.
- Flexibility in payment methods, including billing.
- Updated towing fees, including a new storage fee and after-hours retrieval fee:

- Raised maximum towing fee from \$75 to \$125
- Added maximum storage fee (after 3 days of free storage) of \$15 per 24 hours
- Added maximum after-hours (midnight to 6am) retrieval fee of \$40

### **Community Involvement**

The following community outreach was conducted.

- Created a website for people to access information and provide feedback:  
<http://www.scottsdaleaz.gov/codes/towing>;
- Emailed information to property owners, tow operators and others, as requested;
- Designated a city point of contact to receive feedback specific on the proposed ordinance;  
and
- Held two public meetings.

Based on community input the following changes were made to the ordinance:

- Sign requirements no longer apply to the entrances into homeowner associations with private streets. However, if an association wants to tow vehicles from the association's private parking lots (such as near a community center, golf club or pool), city-designated towing signs are required, although contrasting colors other than red and white may be used, to recognize an association's design principles and its thematic colors.
- Sign requirements only apply to the entrances of multi-level parking garages and multi-family residential developments where the parking is not contiguous.
- Private parking areas may have additional signs regarding restrictions on parking so long as they conform to other city regulations and don't conflict with the ordinance requirements.
- A private parking area manager may act for a property owner under written authorization from the property owner.
- Upon producing the keys to a vehicle, a person requesting that a towing carrier drop the vehicle before it is towed is entitled to the vehicle.
- Charges for storing vehicles more than three days, and for after-hours vehicle release from the impoundment yard, are now permitted.
- Cash, credit and debit cards are all accepted for releasing a vehicle, but no extra charges are allowed for using credit and debit cards.

## **RESOURCE IMPACTS**

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### **Available funding**

No additional funding is required.

### **Staffing, Workload Impact**

Existing Police Department staff will enforce the ordinance if adopted.

### **Maintenance Requirements**

None.

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**Future Budget Implications**

None.

**OPTIONS & STAFF RECOMMENDATION**

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**Recommended Approach**

Adopt Ordinance 4136

**RESPONSIBLE DEPARTMENT(S)**

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Police, Planning Neighborhoods & Transportation, City Attorney

**STAFF CONTACTS (S)**

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Jeff Walther, Assistant Chief of Police, [jwalther@scottsdaleaz.gov](mailto:jwalther@scottsdaleaz.gov); Walt Brodzinski, Right-of-Way Supervisor, [wbrodzinski@scottsdaleaz.gov](mailto:wbrodzinski@scottsdaleaz.gov); Luis Santaella, Sr. Assistant City Attorney, [lsantaella@scottsdaleaz.gov](mailto:lsantaella@scottsdaleaz.gov).

**APPROVED BY**

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2.4.14  
Date

  
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2.5.14  
Date

**ATTACHMENTS**

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1. Ordinance 4136

ORDINANCE NO. 4136

AN ORDINANCE OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING ARTICLE V, BY DELETING SECTIONS 17-123 THROUGH 17-123.5, AND ADDING ARTICLE X TO CHAPTER 17, MOTOR VEHICLES AND TRAFFIC, OF THE SCOTTSDALE REVISED CODE FOR THE REGULATION OF TOWING.

WHEREAS, the City Council finds that revisions to the provisions regarding towing from private property will build confidence in the integrity of the towing industry, avoid unnecessary confrontations between a towing operator and the driver of a vehicle about to be towed, and enhance public safety, now therefore,

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. Article V, Sections 17-123 through 17-123.5 are hereby deleted from Chapter 17, Motor Vehicles and Traffic.

Section 2. Article X, Sections 17-360 through 17-372 are hereby added to Chapter 17, Motor Vehicles and Traffic, of the Scottsdale Revised Code, as follows:

**ARTICLE X. TOWING.**

**Sec. 17-360. Definitions.**

*Immobilization device* means a tool attached to a motor vehicle that makes it immobile until the device is removed.

*Parking area* means one or more spaces not affiliated with a single family residence, intended for temporary public motor vehicle parking.

*Property owner* means a person who owns private property, including the authorized representative of the owner.

*Tow* includes transport by any means.

*Towing carrier* means any person who tows, or attempts to tow, motor vehicles from private property in the city, for compensation of any kind.

*Vehicle owner* means the person who owns a motor vehicle, including the vehicle operator and authorized agent of the owner.

**Sec. 17-361. Applicability.**

Sections 17-360 through 17-372 apply to a towing carrier operating in the city, and all transactions related to a tow that originates in the city, regardless of the impound lot location.

**Sec. 17-362. Private parking areas—Generally.**

The property owner of any private parking area is deemed to have given consent to unrestricted parking by the general public in such parking area, unless parking is otherwise restricted under

the Scottsdale Revised Code.

**Sec. 17-363. Required signs.**

- (a) To tow a motor vehicle from a private parking area, the following signs are required.
- (b) The signs shall contain the following information:
  - (1) Warning—Private Property;
  - (2) Parking violators towed at owner's expense;
  - (3) Maximum towing fee \$125;
  - (4) After hours fee \$40 (12AM-6AM);
  - (5) Scottsdale Police Department 480-312-5000; and
  - (6) A reference to Scottsdale Revised Code, Sections 17-360 through 17-372.
- (c) The signs shall be located to put drivers on notice that the area restricts public parking:
  - (1) At each entrance to the private parking area, including each entrance to a multi-level parking garage and each entrance to a multi-family residential development where parking is not contiguous; and
  - (2) In surface private parking areas (except for multi-family residential development), to be clearly visible and readable from any point in the private parking area.
- (d) The size and height of signs shall be:
  - (1) At each entrance to a private parking area:
    - (A) Minimum size: 12 inches by 24 inches.
    - (B) Height range above the ground: minimum height of three feet and maximum height of six feet.
  - (2) Within surface private parking areas (except for multi-family residential development where parking is not contiguous):
    - (A) Minimum size: 12 inches by 9 inches.
    - (B) Height range above the ground: minimum height of three feet and maximum height of ten feet.
- (e) The minimum height range above the ground is measured from the bottom of the sign. The maximum height range above the ground is measured from the top of the sign.
- (f) All signs shall:
  - (1) Be red and white, except as provided below for property owners' associations.
  - (2) Be rigid and inflexible, and include those made of metal, sturdy plastic or other material that resists bending.
  - (3) Be flat.
  - (4) Be fade resistant and weather resistant.
  - (5) Conform to the sign examples below, without additions or deletions.
  - (6) Have a corner radius of 1.5 inches.
- (g) Signs located on private parking areas owned by a property owners' association in an area containing private streets shall conform to the requirements of subsection (f) above, except that the signs may have contrasting colors other than red and white.



# 12" x 24" sign

## Red and white

## Clearview font



9" x 12" sign  
Red and white  
clearview font



- (h) Signs at each entrance to a private parking area shall be reflective.
- (i) Signs shall be updated within 30 days of any changes in circumstances or the law.
- (j) Signs are required to conform to this section six months after the effective date of this ordinance.
- (k) Additional signs regarding towing from private parking areas are permitted in conformance with the Scottsdale Revised Code, including No Parking signs, if the information on the signs does not conflict with the information required by subsection (b) above.

**Sec. 17-364. Exemption from sign requirements.**

Signs are not required to tow a motor vehicle left in a private parking area for more than seventy-two consecutive hours. However, before the motor vehicle is towed, the Scottsdale Police Department shall be notified as specified in Section 17-366.

**Sec. 17-365. Permission to tow required.**

- (a) A person towing a motor vehicle from a private parking area with posted signs that conform to section 17-363 must have permission from the vehicle owner, or written permission from the property owner or the property owner's authorized representative, as follows:
  - (1) The property owner shall sign each towing order at the time of the towing, or
  - (2) The property owner shall enter into a written contract authorizing towing, with the following provisions:
    - (A) The property owner's name, representative's name, and phone numbers.
    - (B) The towing carrier's name, owner's or designee's name, and phone numbers, including a phone answered 24 hours a day, 7 days a week.
    - (C) The date of the contract.
    - (D) The term of the contract does not exceed one year.
    - (E) The contract is not transferable between property owners or between towing carriers.
- (b) When an authorized representative acts on behalf of the property owner, the representative shall show the written authorization, upon request, to a law enforcement officer. If requested, the towing carrier shall provide a copy of the written authorization to the law enforcement officer within one (1) business day of the request.
- (c) A person towing a motor vehicle shall not act as the property owner's representative.
- (d) The person towing a motor vehicle under this section shall show a copy of the current written contract, upon request, to a law enforcement officer. If requested, the towing carrier shall provide a copy of the current written contract to the law enforcement officer within one (1) business day of the request.

**Sec. 17-366. Prior notice to Police Department required.**

- (a) Any person towing a motor vehicle from private property without permission from the vehicle owner shall notify the Scottsdale Police Department before towing the motor vehicle.
- (b) The person towing the motor vehicle shall provide the Scottsdale Police Department with the



following information:

- (1) The name and address of the vehicle owner, if known;
- (2) The motor vehicle license number, vehicle identification number (VIN) and description;
- (3) The reason the motor vehicle will be towed;
- (4) The street address of the impound lot where the motor vehicle will be taken;
- (5) The name, phone number and driver's license number of the person that will tow the motor vehicle; and
- (6) The towing carrier's name, address, and phone numbers, including a phone answered 24 hours a day, 7 days a week.

#### **Sec. 17-367. Staging prohibited.**

A towing carrier is only authorized to tow a motor vehicle from the parked location directly to the towing carrier's permanent impound lot. A towing carrier shall not drop a motor vehicle at any place between the parked location and the towing carrier's permanent impound lot.

#### **Sec. 17-368. Release of motor vehicles.**

- (a) Any person or towing carrier towing a motor vehicle without the vehicle owner's permission shall maintain personnel able and authorized to release the motor vehicle to the claimant 24 hours a day, 7 days a week.
- (b) A towed motor vehicle shall be immediately released to a claimant upon the production of the following proof of ownership: an actual or photocopy of the vehicle registration or title, whether current or not, or a current rental agreement for the towed motor vehicle, with the claimant's:
  - (1) Driver's license; or
  - (2) Photo identification, whether current or not, issued by any state or other sovereign empowered to issue such a license or identification, indicating the same last name as that in which the vehicle is registered; or
  - (3) Photographic identification issued by any state or other sovereign empowered to issue such a license or identification, and the keys to the towed motor vehicle.
- (c) A person in possession of a motor vehicle towed without the vehicle owner's permission shall allow a claimant immediate access to the towed motor vehicle, upon request, to retrieve any of the documentation listed in subsection (b) above.
- (d) A person in possession of a motor vehicle towed without the vehicle owner's permission may require a claimant:
  - (1) To provide a current address and phone number for billing.
  - (2) To sign a receipt for the motor vehicle claimed. However, the receipt shall only contain the following:
    - (A) The letterhead, name and address of the towing carrier;
    - (B) The name and address of the claimant;
    - (C) The date and time when the motor vehicle was claimed;
    - (D) A description, including the license number, of the claimed motor vehicle; and
    - (E) A statement of the unpaid balance, if any.
- (e) A person in possession of a motor vehicle towed without the vehicle owner's permission shall provide the claimant with information regarding billing and collection procedures. This



information shall not contain any promissory note language.

- (f) A person in possession of a motor vehicle towed without the vehicle owner's permission shall accept cash and credit and debit card payments for all fees. There shall be no additional charges for credit and debit card payments. No person in possession of a motor vehicle towed without the vehicle owner's permission shall require exact change to release the vehicle.
- (g) No person shall release any motor vehicle after having been advised by any law enforcement agency that the vehicle has been reported as stolen.

**Sec. 17-369. Maximum charge for towing.**

- (a) Under this article, the maximum charge for towing a motor vehicle from the city without the vehicle owner's permission shall be: \$125, including the first seventy-two (72) hours of storage.
- (b) The maximum charge includes all charges for towing the motor vehicle from the city, including all charges for transporting and storing the vehicle for up to seventy-two (72) hours, driver's fees and surcharges. Except as provided in subsections (c) and (d) below, no additional charges are permitted.
- (c) Under this article, the maximum charge for storing a motor vehicle after the first seventy-two (72) hours of storage, for towing a motor vehicle from the city without the vehicle owner's permission, shall be \$15 per 24 hours.
- (d) Under this article, the maximum charge for releasing a vehicle between the hours of midnight and 6:00am shall be \$40.

**Sec. 17-370. No charge for incomplete service call.**

- (a) If the vehicle owner or driver returns to the motor vehicle (parked in a private parking area properly posted with signs that conform to section 17-363) before the following occur, the attempt to remove the motor vehicle is an incomplete service call:
  - (1) The motor vehicle is fully secured on the tow truck,
  - (2) The motor vehicle is removed from the immediate area where it was parked, and
  - (3) The tow truck enters a public street.
- (b) The person or towing carrier shall release the motor vehicle subject to an incomplete service call upon a person's claiming lawful possession of the motor vehicle and producing the keys to the motor vehicle. No payment or other proof of ownership or control shall be required before release.
- (c) The person or towing carrier shall release the motor vehicle subject to an incomplete service call without charge.

### **Sec. 17-371. Violations.**

- (a) No person shall tow a motor vehicle from a private parking area without the vehicle owner's permission, unless the property is properly posted with signs that conform to section 17-363.
- (b) No property owner of any private parking area subject to towing shall permit towing unless the property is properly posted with signs that conform to section 17-363.
- (c) No property owner of any private parking area without signs that conform to section 17-363 shall intentionally or knowingly permit towing of motor vehicles without the vehicle owner's permission.
- (d) No person shall tow a motor vehicle from a public street, except with the vehicle owner's permission or on direction from a city police officer or police aide.
- (e) No person shall tow a motor vehicle from private property without the vehicle owner's permission, except when the property is properly posted with signs that conform to section 17-363 and:
  - (1) On direction from a city police officer or police aide, or
  - (2) On direction from the property owner as required by section 17-365.
- (f) No person shall tow a motor vehicle from private property without the vehicle owner's permission, unless the person notifies the Scottsdale Police Department before towing the motor vehicle as required by section 17-366.
- (g) No person shall immobilize a motor vehicle with an immobilization device to enforce a parking restriction, except on direction from a city police officer.
- (h) No person shall drop, store or hold a towed motor vehicle at any place between the parked location and the towing carrier's permanent impound lot.
- (i) No person shall fail to release a motor vehicle towed without the vehicle owner's permission immediately after the claimant has produced the documentation required in section 17-368.
- (j) No person releasing a motor vehicle after its being towed without the vehicle owner's permission shall require as a condition of release any documentation different from that permitted in section 17-368.
- (k) No person releasing a motor vehicle after its being towed without the vehicle owner's permission shall charge more than the maximum charges permitted in section 17-369.
- (l) No person releasing a motor vehicle after its being towed without the vehicle owner's permission shall hold the vehicle as security for payment of the charges.

### **Sec. 17-372. Penalties.**

- (a) A violation of this article is punishable as a class one misdemeanor.
- (b) The minimum mandatory fines for violations of this article are:
  - (1) For a first violation: two hundred fifty dollars (\$250), plus surcharges.
  - (2) For a second violation: five hundred dollars (\$500), plus surcharges.
  - (3) For a third or subsequent violation: one thousand dollars (\$1,000), plus surcharges.



- (c) In addition to the penalties above, a violation of sections 17-364 through 17-370 shall result in a fine equal to the greater of (i) the maximum charge for towing, or (ii) the actual charge collected by the towing carrier.
- (d) The fines imposed from subsections (b) plus (c) above shall not exceed twenty-five hundred dollars (\$2,500).

PASSED AND ADOPTED by the City Council of the City of Scottsdale this 25<sup>th</sup> day of February, 2014.

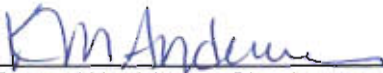
ATTEST:

CITY OF SCOTTSDALE, an  
Arizona municipal corporation

By: \_\_\_\_\_  
Carolyn Jagger, City Clerk

By: \_\_\_\_\_  
W.J. "Jim" Lane, Mayor

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

  
\_\_\_\_\_  
Bruce Washburn, City Attorney  
By: Kathe Anderson, Assistant City Attorney